

05-1676-CBS

**AFFIDAVIT OF JOHN L. KELTER**

I, John L. Kelter, being duly sworn, do state that:

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). I have been an ATF Special Agent for approximately three (3) years. Prior to my employment with ATF, I was a duly sworn police officer in the City of Lynn, Massachusetts for seven years. During this time, I have been involved in numerous investigations of violations of federal and state firearm and controlled substance laws. Currently, I am assigned to the Boston Field Division that, in part, works with other federal, state, and local police departments in and around Essex County, investigating and prosecuting violations of federal and state firearm and controlled substance laws.

2. Based on my training and experience as an ATF Special Agent, I know that it is a violation of 18 U.S.C. § 922(g)(1) for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one (1) year to possess any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

3. The facts stated herein are based upon my own personal involvement in this investigation and my discussions with other law enforcement officers involved in this investigation. In submitting this affidavit, however, I have not included each and every fact known to me about the investigation, but only those facts, which I believe are sufficient to establish the requisite probable cause.

4. On May 26, 2005, Samnang AM ("AM"), whose date of birth is March 7, 1983, and whose social security number is 014-64-9722, was arrested by the Lynn Police Department for carrying/possessing a firearm without being licensed to do so. A check of AM's criminal

history revealed that AM has two (2) adult convictions for Assault & Battery -- one out of Lynn District Court, Docket No. 0313CR5986A, and one out of Salem District Court, Docket No. 0336CR2633A and 0336CR2633B. Both of these charges carry a sentence of up to two and one half years in jail in the Commonwealth of Massachusetts. Based on my own personal investigation as well as from information provided by officers of the Lynn Police Department, I have learned the information detailed in the following paragraphs.

5. On May 26, 2005, at approximately 7:00 p.m., Sgt. Michael Vail and Officer Michael Kmiec of the Lynn Police Department were on patrol in a marked cruiser in the area of Essex Street, in Lynn, MA, when they observed an individual known to them as AM walking on Essex Street in a southerly direction.

6. Sgt. Vail, having been assigned to the Lynn Police Department's Gang Unit for several years, was aware that AM was a member of a Lynn street gang called the "Oriental Street Boyz" ("OSB"), and was a possible suspect in a shooting that occurred on Howard Street in Lynn on May 20, 2005. Sgt. Vail was also aware that AM had been arrested on firearms charges in the past, and did not have a license to carry a firearm in the Commonwealth of Massachusetts.

7. With this information in mind, Sgt. Vail and Officer Kmiec pulled the marked unit over to the side of Essex Street and attempted to speak with AM. When the officers did this, AM turned around and began to walk towards the marked unit. As AM did so, he put his right hand into his front pants pocket.

8. Out of concern for his safety as well as the safety of Officer Kmiec, Sgt. Vail told AM to remove his hands from his pocket. Sgt. Vail then asked AM if he had any weapons on his person. AM's reply to Sgt. Vail's question was, "I'm strapped." Both officers took this response

to mean that AM was in possession of a firearm, and took control of AM until they could determine if AM did in fact have a firearm on his person.

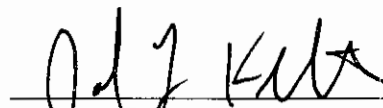
9. As Sgt. Vail and Officer Kmiec began a pat frisk of AM for the weapon he indicated he was in possession of, they asked AM where the firearm was. AM replied to Sgt. Vail and Officer Kmiec that the firearm was in his "front left pocket." Officer Kmiec then pat frisked AM's front left pocket and felt a hard object, which he believed to be a firearm.

10. At this point, Officer Kmiec reached into AM's front left pocket and retrieved the object, which turned out to be a FIE Titan .25 caliber pistol, serial # ED95520. This firearm contained six (6) rounds of PMC .25 automatic ammunition in the magazine. AM was taken into custody by Sgt. Vail and Officer Kmiec for possessing/carrying a firearm and ammunition without being licensed to do so. The firearm was subsequently placed into the Lynn Police Department evidence control room.

11. Upon the request of the Lynn Police Department, I examined the firearm that had been located on the person of AM. I then described the make, model and caliber of the firearm to ATF Special Agent Tony Thurman, an ATF interstate nexus expert, who determined that the firearm was not manufactured in the Commonwealth of Massachusetts, and had thus moved in interstate commerce.

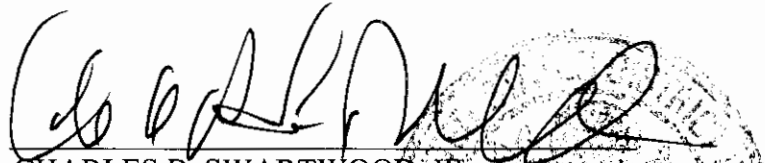
12. Based on the above information, I believe that probable cause exists to conclude that on May 26, 2005, Samnang AM, having previously been convicted of a crime punishable by a term of imprisonment exceeding one (1) year, did unlawfully possess in and affecting interstate commerce a firearm, in violation of 18 U.S.C. § 922(g)(1).

Dated this 6th day of July, 2005.

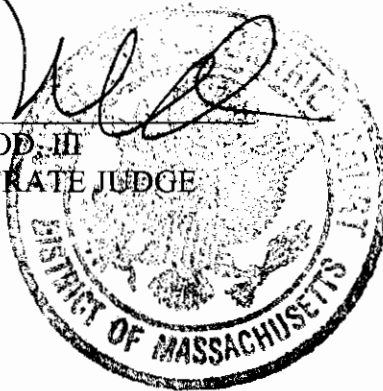


John L. Keller  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn to and subscribed to before me in Boston, Massachusetts, this 6th day of July, 2005.



CHARLES B. SWARTWOOD, III  
UNITED STATES MAGISTRATE JUDGE



**Criminal Case Cover Sheet****U.S. District Court - District of Massachusetts**Place of Offense: Lynn, MA Category No. II Investigating Agency ATFCity Lynn Related Case Information:County Essex Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_  
Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_  
Magistrate Judge Case Number \_\_\_\_\_  
Search Warrant Case Number \_\_\_\_\_  
R 20/R 40 from District of \_\_\_\_\_**Defendant Information:**Defendant Name Samnang Am Juvenile ☐ Yes ☒ NoAlias Name a/k/a Sammang AmAddress 4 Houghton Street, Lynn, MABirth date (Year only): 1983 SSN (last 4 #): 9722 Sex M Race: Asian Nationality: U.S.

Defense Counsel if known: \_\_\_\_\_ Address: \_\_\_\_\_

Bar Number: \_\_\_\_\_

**U.S. Attorney Information:**AUSA Lisa M. Asiaf Bar Number if applicable 634636Interpreter: ☐ Yes ☒ No List language and/or dialect: EnglishMatter to be SEALED: ☐ Yes ☒ No☒ Warrant Requested ☐ Regular Process ☒ In Custody**Location Status:**Arrest Date: May 26, 2005☐ Already in Federal Custody as \_\_\_\_\_ in \_\_\_\_\_☒ Already in State Custody as of June 23, 2005 ☐ Serving Sentence ☒ Awaiting Trial☐ On Pretrial Release: Ordered by \_\_\_\_\_ on \_\_\_\_\_Charging Document: ☐ Complaint ☐ Information ☒ IndictmentTotal # of Counts: ☐ Petty \_\_\_\_\_ ☐ Misdemeanor \_\_\_\_\_ ☒ Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

☒ I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: July 6, 2005Signature of AUSA: Lisa M. Asiaf

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Samnang Am

## U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>18 U.S.C. §922</u>	<u>Felon in possession of firearm</u>	<u>1</u>
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: